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10 *Attorneys for Plaintiff Michele Danise Miller*

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 MICHELE DANISE MILLER,

14 Plaintiff,

15 vs.

16 LONGS DRUGS DBA CVS HEALTH, et al.,

17 Defendants.

Case Number:
2:22-cv-001150-JAD-VCF

**MOTION TO WITHDRAW AS
COUNSEL OF RECORD**

18 Pursuant to Local Rule IA 11-6(b) and Rule 1.16 of the Nevada Rules of
19 Professional Conduct (“NRPB”), the attorneys for the law firm Marquis Aurbach hereby
20 move to withdraw as the attorneys of record for Plaintiff Michele Danise Miller
21 (“Plaintiff”).

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. INTRODUCTION/STATEMENT OF FACTS.**

24 Marquis Aurbach has been representing the Plaintiff in this case as part of the
25 Federal Pro Bono Program and through Legal Aid. Through the course of the representation,
26 various issues have arisen that make it unreasonable for Marquis Aurbach to continue
27 representing the Plaintiff.

28 ///

1 Marquis Aurbach advised Legal Aid of its reasoning for withdrawal and related
 2 intentions. Legal Aid acknowledged Marquis Aurbach's intentions, informed it would return
 3 the Plaintiff to the wait list for a potential new assignment of pro bono counsel, and advised
 4 Marquis Aurbach to file this Motion.

5 To further facilitate the request and avoid prejudice to Plaintiff, Marquis Aurbach
 6 has secured a 60-day extension of time, until August 2023, for Plaintiff to respond to
 7 Defendant's pending Motion to Compel Arbitration and to Dismiss or Stay (ECF No. 24).
 8 Further, there is no trial date and no pending discovery dates.

9 This Court is empowered with full discretion and authority to allow an attorney of
 10 record to withdraw from the pending litigation. And, Marquis Aurbach believes it has
 11 satisfied the requirements for such a withdrawal, as detailed in Local Rule IA 11-6 and
 12 NRPC 1.16.

13 **II. LEGAL STANDARDS**

14 District of Nevada Local Rule LR IA 11-6 governs attorney appearances,
 15 substitutions, and withdrawals and states in relevant part:

16 **LR IA 11-6. APPEARANCES, SUBSTITUTIONS, AND
 17 WITHDRAWALS**

18 ...

19 (b) No attorney may withdraw after appearing in a case except by leave of the
 20 court after notice has been served on the affected client and opposing
 21 counsel.

22 ...

23 (d) Discharge, withdrawal, or substitution of an attorney will not alone be
 24 reason for delay of pretrial proceedings, discovery, the trial, or any hearing in
 25 the case.

26 (e) Except for good cause shown, no withdrawal or substitution will be
 27 approved if it will result in delay of discovery, the trial, or any hearing in the
 28 case. Where delay would result, the papers seeking leave of the court for the
 withdrawal or substitution must request specific relief from the scheduled
 discovery, trial, or hearing. If a trial setting has been made, an additional
 copy of the moving papers must be provided to the clerk for immediate
 delivery to the assigned district judge, bankruptcy judge, or magistrate judge.

See LR IA 11-6.

1 In addition to the Local Rule IA 11-6, NRCP 1.16(b) discusses termination of representation
2 and states in relevant part:

3 **Rule 1.16. Declining or Terminating Representation.**

4 (a) Except as stated in paragraph (c), a lawyer shall not represent a client
5 or, where representation has commenced, shall withdraw from the
representation of a client if:

6 (1) The representation will result in violation of the Rules of
7 Professional Conduct or other law;
8
9 . . .

10 (b) Except as stated in paragraph (c), a lawyer may withdraw from
11 representing a client if:
12
13 . . .

14 (4) A client insists upon taking action that the lawyer considers
15 repugnant or with which the lawyer has fundamental disagreement;
16
17 . . .

18 (6) The representation will result in an unreasonable financial burden
19 on the lawyer or has been rendered unreasonably difficult by the client; or
20
21 . . .

22 (7) Other good cause for withdrawal exists.

23 (c) A lawyer must comply with applicable law requiring notice to or
24 permission of a tribunal when terminating representation. When ordered to do
25 so by a tribunal, a lawyer shall continue representation notwithstanding good
26 cause for terminating the representation.

27 (d) Upon termination of representation, a lawyer shall take steps to the
28 extent reasonably practicable to protect a client's interests, such as giving
reasonable notice to the client, allowing time for employment of other
counsel, surrendering papers and property to which the client is entitled and
refunding any advance payment of fee or expense that has not been earned or
incurred. The lawyer may retain papers relating to the client to the extent
permitted by other law.

29 **III. LEGAL ARGUMENT**

30 Marquis Aurbach asserts the circumstances of the representation and the case satisfy
31 both Legal Standards detailed above and discusses the related arguments below.

32 ///

33 ///

1 **A. MARQUIS AURBACH HAS SATISFIED THE LOCAL RULE IA 11-6
2 REQUIREMENTS.**

3 As detailed below, Marquis Aurbach has satisfied Local Rule IA 11-6's
4 requirements. **First**, as to subsection (b) of the Rule, Marquis Aurbach has communicated
5 with Defendant's counsel, Plaintiff, and even Legal Aid regarding its intentions to withdraw.
6 Further, Marquis Aurbach is serving this Motion on Plaintiff and Defendant's counsel.
7 **Second**, as for subsections (d) and (e), Marquis Aurbach's withdrawal will not unreasonably
8 delay pre-trial proceedings, discovery, trial, or any hearings. Discovery is not yet open and
9 there is no trial date. Further, there is no hearing date. Finally, the only deadline is Plaintiff's
10 deadline to respond to ECF No. 24, which Defendant's counsel has agreed to continue until
11 August 2023 to allow time for Marquis Aurbach to withdraw and for Legal Aid and Plaintiff
12 to secure new counsel, if desired. Thus, Marquis Aurbach has satisfied Local Rule IA 11-6's
13 requirements.

14 **B. MARQUIS AURBACH'S WITHDRAWAL IS APPROPRIATE UNDER
15 THE NEVADA RULES OF PROFESSIONAL CONDUCT.**

16 Marquis Aurbach will not reveal privileged attorney-client communications. Suffice
17 it to say, subsections (a)(1), (b)(4), (b)(6), and (b)(7) are relevant to Marquis Aurbach's
18 rationale for withdrawal.

19 In addition, regarding subsection (b)(1), Marquis Aurbach's withdrawal may also be
20 accomplished without material adverse effect on the interests of the Plaintiff. There is not a
21 scheduling order yet in the case, discovery is not being conducted, and there is no trial date.
22 And, the parties have continued only deadline for Plaintiff to respond to ECF No. 24 until
23 August 2023, which will also allow Legal Aid and Plaintiff to work towards securing new
24 pro bono counsel, if desired. Thus, there is no material adverse effect on the Plaintiff.

25 Regarding subsections (c) and (d), through Marquis Aurbach's filing of this Motion,
26 it has complied with applicable law requiring notice to or permission to withdraw. In
27 addition, as detailed above, Marquis Aurbach has given reasonable notice to the Plaintiff of
28 the request to withdraw and also has secured an additional 60 days for Plaintiff to retain new
 counsel, if desired.

1 **IV. CONCLUSION**

2 Based on the foregoing, Marquis Aurbach respectfully requests that it be relieved of
3 its obligations in this matter and permitted to withdraw as counsel of record. Further, it is
4 requested that this firm be removed from the ECF platform in relation to Plaintiff and this
5 case.

6 Plaintiff's mailing and email addresses are:

7 Michele Miller

8 247 Eastdale Rd, S., Apt H., Montgomery, AL 36117

9 mmiller143@hotmail.com

10 Dated this 25th day of May, 2023.

11 MARQUIS AURBACH

12 By /s/ Reagan A. Weber, Esq.

13 Nick D. Crosby, Esq.
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15 Tye S. Hanseen, Esq.
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17 W. Reese Levins, Esq.
18 Nevada Bar No. 15951
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23 Attorneys for Plaintiff
24 Michele Danise Miller

19 **IT IS SO ORDERED**

20 **DATED:** 3:26 pm, May 29, 2023

21 
22 **BRENDA WEKSLER**
23 **UNITED STATES MAGISTRATE JUDGE**